

**REMARKS:**

This will confirm that a telephone interview was held with the Examiner and the Examiner's supervisor, on October 22, 2007, during which the prior art Bladen and Masch Patents were discussed in some detail, as were the Claims of the present application. No agreement was reached on patentability, but suggestions were made in a general manner concerning amendments to the Claims.

Applicant has amended the Claims in accordance with the discussions and the Claims, as amended, are allowable.

The Examiner has rejected Claims 1 to 2, 10 to 12, 20 to 21, 25 to 32, 34 to 36, 40, 42 to 50, as being anticipated by Bladen et al. The Bladen application provides a computer program whereby a template and databases that include question sets can be accessed to assist a consultant in conducting a risk assessment. There are various functions and duties of users of the program, which are set out at the bottom of page 5 in paragraph [0167]. Bladen states that these are IT administrators, chief consultants, and local consultants. IT administrators are responsible for creating, maintaining, and updating the blank templates. Chief consultants are responsible for generating and populating discipline-specific master manuals, and local consultants are said to be responsible for generating site-specific databases and for performing audits and interactive assessments. At the bottom of page 13, in paragraph [0278] it is stated that the module 230 is used for defining the risk assessment functionality that may be assessed by a user. Paragraph [0279], on page 14, describes a risk monitoring module 232 that defines all of the functionality associated with risk monitoring that can be assessed by a user.

The Bladen application does not provide a computer program that conducts a risk assessment, but only provides a checklist and software that allows forms to be filled in by a consultant who is

conducting a risk assessment manually. It is the local consultant who makes the decision as to whether or not a site complies or does not comply. For example, in Figures 7A to 7D, step 710 provides assessed site compliance using site-specific assessment files. Step 720 is identical, except that Figure 7A relates to high-level risk assessment process and Figure 7B relates to interactive risk assessment process. Figure 7C is entitled Audit Process, and provides in step 730 "audit a site using the site-specific audit files". Figure 7D is entitled Interactive Risk Assessment and Audit Process and provides in step 742 "audit a site using the site-specific audit files", and in step 746 "assess site compliance using interactive site-specific assessment files". The description provides in paragraph [0125] that step 710 includes assessing site risk and/or compliance using the site-specific assessment files generated in step 708. Step 708 is simply retrieving site-specific assessment files that have been stored electronically from the master assessment manual. In paragraph [0132], step 720 includes interactively assessing site compliance using the site-specific interactive assessment files. Again, these assessment files are simply files that are stored in step 718 electronically from the master interactive assessment manual. It is the local consultant who makes the decision concerning the assessment in steps 710 and 720. Paragraph [0138] provides that step 730 includes auditing a site using the site-specific audit files and step 728 provides "generate site-specific audit files from the master audit manual". Paragraph [0148] provides that step 746 includes assessing site compliance using the interactive site-specific assessment files generated in step 744. Paragraph [0149] on page 4, provides that the procedures and/or instructions in step 746 are performed over a period of time, and gives the example of three months, after which one or more local consultants may come back in, assess the adequacy of risk reduction since the audit, and/or review or revise the interactive file and maintenance procedures and/or instruction.

In another example, on page 26 beginning at paragraph [0542], Bladen provides that the Environmental Health Consultant will have already identified the hazards associated with handling the food onsite, and in paragraph [0546] will have then determined which control measures are necessary to reduce the risk associated with a particular hazard to an acceptable level. In making their decision, the Environmental Health Consultant will have determined whether the control measure is already in place, or is not in place and is therefore required to be introduced. Therefore, all Bladen is providing is a word processing and database capability whereby checklists and information relating to a specific site can be stored, information can be revised through word processing, and the appropriate experts (local consultants, health consultants, etc.) can make a determination as to whether or not a particular site meets the requirements, or does not meet the requirements. In Bladen, the assessor is carrying out a manual assessment using information that is available in a computer program, and the result is, of course, subjective to the individual assessor. For example, two different assessors using the same information and having the same input, can reach a different result.

With the present invention, if the same information is inputted into the system, the result will always be identical, and is repeatable. The present invention therefore provides a much more objective system for risk assessment and it is respectfully submitted that the rejection made in paragraph 3 of the Office Action be withdrawn.

In paragraph 5 of the Office Action, the Examiner rejects Claim 3 as being unpatentable over Bladen, and further in view of Melby. Melby is said to include the step of repeating the method for various pieces of industrial equipment. The Examiner states in paragraph 5 of the Office Action that the Melby Patent discloses the step of repeating the method for various pieces of industrial equipment, the risk evaluation being produced automatically. The Melby Patent

describes a computer-based system that is said to analyze information within the system and to schedule maintenance as required. Information associated with the maintenance is also said to be recorded. The Melby Patent has nothing to do with risk assessment or risk evaluation whatsoever. In column 6 of Melby, beginning at line 47, the Patent states that a data acquisition device 32 is provided on each of the forklifts 31 for sensing and storing one or more operating characteristics of the associated forklift 31. The basic structure and operation of each of the data acquisition devices 32 are conventional in the art. Each of the forklifts is provided with a transmitter 33 for transmitting the acquired data from the data acquisition device 32 to a remote analysis system 50. A receiver or receivers 35 receive data transmitted from the data acquisition devices 32. The receiver is also said to be conventional in the art. In column 15, beginning at line 27, the Melby Patent states that the invention provides a superior method for tracking and managing the assets 31 and the prior art system 10, by providing the assets with the data acquisition devices 32 and the communication system 33 and 34, the operational characteristics and other information regarding the assets is automatically sensed and transmitted to the analysis controller, which is programmed to analyze the information as it is received, and to automatically generate maintenance and warranty reports. The system described in Melby does not use information received to evaluate risk, it simply uses information received to determine whether maintenance needs to be scheduled because a truck, for example, has travelled a particular distance, or three months has passed since the previous maintenance. Further, combining Bladen, which is really just word processing software with particular forms to assist with checklist and recording of information to enable an assessor to conduct a manual risk evaluation, with Melby, produces no benefit, and certainly does not result in the present invention. The rejection of Claim 3 in paragraph 5 of the Office Action should therefore be withdrawn.

The Examiner has rejected Claims 4, 23, and 24 as being obvious over Bladen, in view of Masch. The references to Melby in paragraph 6 of the Office Action appear to be in error, as the Examiner is referring to Claim 4 of Masch, not Melby. In any event, Claim 4 of Melby does not state what the Examiner says it states. Claim 4 of Masch claims a computer method for managing risk, where the method develops a strategy for physical systems and preventing any of the outcome levels for the risk-related activities from falling outside of the boundary limits. In the risk assessment method and system of the present invention, in order to determine whether or not the risk evaluation results in an acceptable risk or an unacceptable risk, the system and method must permit outcome levels to fall outside of the boundary limits where the level of risk is unacceptable. Otherwise, the system would not produce any meaningful result. In subparagraph (4) of Claim 4 of Masch, it is stated that if the outcome level of at least one of the risk-related activities falls outside the boundary limits for that activity then deriving at least one risk limiting derivative constraint from the comparison, and in subparagraph (5) expanding the initial model in the computer memory by adding the risk-limiting derivative constraint to the initial model, and further in subparagraph (6) producing a solution of the expanded model with the added risk-limiting derivative constraint in the computer memory, and finally in subparagraph (7) deriving from the expanded model a new set of outcome levels for the risk-related activities and displaying said new set of outcome levels in at least three-dimensional matrix in the form of a graph. In other words, Claim 4 expands the initial model by the same risk-limiting derivative constraint that the outcome level initially falls outside the boundary limits for that activity, to ensure that the outcome level does not fall out of the expanded boundary limits for the activity. Claim 4 of Masch therefore provides that the result will never show an unacceptable level of risk.

It is therefore respectfully submitted that the rejection of Claim 4, based on Bladen in view of Masch, keeping in mind that Bladen is just a specialized word processing program, be withdrawn. The same arguments made with respect to Claim 4 of the present invention can be made with respect to Claims 23 and 24 of the present invention, and those rejections must also be withdrawn for the same reasons.

The Examiner has rejected Claims 5 to 9 and 13 to 19 as being unpatentable over Masch and further in view of Bladen. The Examiner states that Bladen includes the steps of inputting information by estimating a risk of injury to the user, based on characteristics of the industrial equipment and estimating a level or risk reduction based upon the safety features for the industrial equipment. With Bladen, as stated above, the risk assessment is simply a manual risk assessment, and two different assessors could reach a different conclusion as to risk assessment even though the information upon which the risk assessment is based is identical. In other words, with the same input to two different assessors, a different result as to whether or not there is an acceptable risk could be reached. With the present invention, since the result is automatically determined based on the input information, the same result will occur whenever the input information is identical.

Further, as discussed above with respect to the method claimed in Claim 4 of Masch, the method of Claim 4 is totally unsuitable for the purposes of conducting a risk assessment, as the result will always be within the boundary limits, as the boundary limits are expanded to include whatever result would arise.

With respect to Claim 6 of the present invention, Claim 6 has been revised and the rejection no longer applies. However, the Examiner states that Bladen discloses steps of inputting risk to a program information relating to a plurality of risk factors and the program estimating a net risk

of injury. As discussed above, Bladen is a manual system where the assessor estimates the net risk of injury and also manually determines the risk associated with various risk factors. Therefore, the rejection based on Claim 6 should be withdrawn.

Concerning Claim 7, Claim 7 has been revised and the rejection no longer applies. However, the printing in Bladen is merely printing the word processing information that has been inputted into the program described in Bladen. No calculation is made by the Bladen program itself. Therefore, the rejection based on Claim 6 should be withdrawn.

With respect to Claim 8, Claim 8 has been revised and the rejection no longer applies. However, there is no drop-down menu in Bladen, and no three selections for each risk factor. The determination in Bladen is made by the assessor manually. For these reasons, the rejection of Claim 8 should be withdrawn.

Concerning Claim 9, the same reasoning applies with respect to Claim 8.

Concerning Claims 13 to 19, inclusive, as rejected on pages 13 to 15 of the Office Action, the same arguments apply and all of the rejections based upon Bladen should be withdrawn, as Bladen is a manual assessment system only, and therefore produces various subjective results. In addition to the results of the present invention being repeatable for the same inputs, since there are so many inputs for the method and system of the present invention, even if there are some differences in the inputs, the end result as to whether or not the level of risk is acceptable will often be the same.

In paragraph 8 of the Office Action, Claim 11 is rejected as being unpatentable over Bladen, and further in view of Bly. The Examiner states that Bly discloses including the step of inputting equipment identification information into the risk evaluation. Bly describes a system and method

for tracking user certification and training, and has nothing whatsoever to do with risk evaluation. Further, combining Bly with Bladen does not render the present invention as claimed in Claim 11 obvious, because Bladen is a manual risk evaluation system. It is not obvious from a manual risk assessment system to devise the risk assessment system of the present invention as a manual system has an infinite number and level of inputs and a subjective output. With the present invention, when the inputs have been made, the risk evaluation is totally objective, as it is based on those inputs and is entirely repeatable for the same inputs. It is therefore respectfully submitted that the rejection of Claim 11 based on Bladen and further in view of Bly, be withdrawn.

The Examiner has rejected Claim 22 as being unpatentable over Bladen, and further in view of Taylor. The Examiner states that Taylor discloses a program that allows more than one version of a risk evaluation for the industrial equipment, and includes the step of creating a new version of a risk evaluation for editing an existing version and inputting reasons for creating each version. Taylor describes a method for optimizing interaction among agents acting on multiple levels and has nothing to do with risk assessment. Further, Bladen is a manual system with a specialized word processing program for inputting and recording information. Still further, with the present invention, since the identical result is obtained with the identical inputs, if a new version or an edited version of an existing version is created, the inputs that produced the result for the new or edited version are recorded, and can be used against the user in the event that a wrong result is obtained for a piece of industrial equipment due to attempts to manipulate the result by submitting false information. That is much more difficult to show with a manual system. It is therefore respectfully submitted that the rejection should be withdrawn.



We note that the Examiner did not provide any reasons for rejecting Claim 32, and Claim 32 is therefore allowable. Bladen does not apply to Claim 32 because Bladen is a manual assessment as described above.

The Examiner has rejected Claims 33 and 37 as being unpatentable over Bladen, and further in view of Masch. Column 14, lines 35 to 60 of Masch refer to a parameter of a physical system having a plurality of different possible values, but there is no statement in Masch as stated by the Examiner, that one of the risk factors is a level of risk reduction based on safety characteristics of a particular facility in which the industrial equipment is to be used. In any event, the combination of Bladen, which is a manual system of risk assessment, and Masch, does not render Claim 33 or Claim 37 obvious, as Masch does not produce a useful risk evaluation as it cannot produce a result that goes beyond the boundary limits of the system, and therefore cannot produce a result that concludes that there is an unacceptable risk. Since Bladen is a manual system, it is subject to the shortcomings of manual systems in that it is sometimes difficult to determine the basis upon which the assessor reached the decision reported, and the result itself is extremely subjective. Manual risk assessments must be conducted by experts. With the present invention, less experienced persons can conduct the risk assessment at lower cost, and therefore greater efficiency, and can achieve the same result as would be achieved by an expert. Further, the program of the present invention permits risk assessments to be conducted in much less time than previous assessments.

The Examiner has rejected Claims 38 and 30 as being unpatentable over Masch, and further in view of Bladen in paragraph 11 of the Office Action. As stated, Masch does not disclose a system suitable for performing risk assessments as an unacceptable risk cannot be determined by the Masch system. Further, Bladen is a manual system, and it is therefore respectfully submitted

that Claims 38 and 39 are not rendered obvious by Masch and Bladen, and the rejection should be withdrawn.

The Examiner has rejected Claim 41 as being unpatentable over Bladen, and further in view of Bly. Since Bladen is a manual system, the combination of Bladen and Bly do not render Claim 41 obvious, and the rejection should be withdrawn.

#### SUMMARY

With the present invention, when a user conducts a risk assessment using the invention, the user does have a choice as to which inputs, ranging from major to minor, will be inputted into the system. However, once the inputs have been inputted, the user has no control over the result for the net risk of injury or for the result relating to the risk evaluation that the system produces. While the user can perform another risk assessment with different inputs, all of the input information for each result will be produced in the report of the risk assessment, and it will be fairly easy for a person reviewing the report later to determine whether the user has deliberately inputted false information in order to manipulate the end result. The user is therefore taking a huge risk if the user does not honestly input information. With a manual risk assessment, it is much easier for an assessor to manipulate the results and to cover up the reasoning for the manipulation. The prior art relied upon by the Examiner does not render the claims of the present application, as amended, unpatentable.

It is therefore respectfully submitted that the application is in condition for allowance.

Yours very truly,



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Except for the change of ORIGINAL to PREVIOUSLY PRESENTED in Claim 6 this Response is identical to the previous Response filed earlier today.

A handwritten signature in black ink, consisting of a stylized 'D' followed by a series of loops and a long, sweeping horizontal line extending to the right.

Daryl W. Schnurr

Reg. No. 28,569\

November 8, 2007.